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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 SOUTHERN DIVISION

11 MATTHEW THOMAS	}	Case No. 8:24-cv-00145-JLS-JDE
12 PLASCENCIA,		
13 Plaintiff,		ORDER TO SHOW CAUSE RE
14 v.		FAILURE TO COMPLY WITH
15 JOE T. TURNQUIST, et al.,		ORDER REGARDING
16 Defendants.		COMPLAINT (DKT. 6)
17		

18 On January 18, 2024, Plaintiff Matthew Thomas Plascencia (“Plaintiff”),
19 who was then detained at the Theo Lacy Facility in Orange County, California,
20 proceeding pro se and seeking to proceed in forma pauperis, filed a civil rights
21 complaint under 42 U.S.C. § 1983 relating to conduct that occurred while
22 Plaintiff was detained at the Men’s Central Jail, located in Santa Ana,
23 California (the “Jail”), naming Deputies Joe T. Turnquist (“Turnquist”) and J.
24 Quenzler (“Quenzler”), and Dr. Kahn as defendants in various capacities,
25 seeking monetary damages and unspecified injunctive relief. Dkt. 1
26 (“Complaint”). On February 6, 2024, the undersigned issued an order after
27 screening the Complaint under 28 U.S.C. § 1915A(b), finding Plaintiff had, for
28 screening purposes, state a Fourteenth Amendment excessive force claim

1 against Turnquist and Quenzler, but had not appeared to state any other claim,
2 as pled, and providing Plaintiff the following options as to how to proceed:

3 **Within thirty (30) days of this Order**, Plaintiff must choose one of
4 the following options and file the document required by that
5 option:

6 1. If Plaintiff desires to proceed only with his Fourteenth
7 Amendment excessive force claim against Turnquist and Quenzler
8 and no other claim, Plaintiff need only file a document titled
9 “Notice of Election” stating that he elects to proceed only on this
10 claim and not as to any other claim, with the other claims
11 voluntarily dismissed, and the action will proceed as to that claim
12 against Turnquist and Quenzler in their individual capacity, subject
13 to any ruling by the District Judge on Plaintiff’s request to proceed
14 in forma pauperis (“IFP Request”). The undersigned notes that
15 Plaintiff did not provide a certified copy of his prison trust account
16 statement as required by 28 U.S.C. § 1915(a)(2). If Plaintiff files a
17 Notice of Election as set forth above and his IFP Request is
18 granted, the Court will commence the process of ordering the
19 issuance of summonses and directing attempts at service of process.
20 If Plaintiff files the Notice of Election set forth above and the IFP
21 Request is denied or remains not granted, the Court will not issue
22 summonses or direct attempts at service; but in that circumstance,
23 nothing would prevent Plaintiff from thereafter paying the full filing
24 fee, requesting summonses, and then taking steps to serve process
25 upon Turnquist and Quenzler in compliance with Rule 4 of the
26 Federal Rules of Civil Procedure.

27 **OR**
28

1 2. If Plaintiff believes some of all of the deficiencies set
2 forth above can be remedied and wishes to seek to remedy those
3 deficiencies, Plaintiff shall file a First Amended Complaint
4 attempting to remedy those defects. Such First Amended
5 Complaint should bear the docket number assigned in this case; be
6 labeled "First Amended Complaint" and filled out completely,
7 including the caption page; be complete in and of itself without
8 reference to the prior complaint or any other pleading, attachment,
9 or document; and shall properly identify all defendants and specify
10 all facts upon which Plaintiff alleges a particular defendant caused
11 any alleged constitutional violation. Plaintiff shall separately
12 identify each claim for relief and provide the legal and factual bases
13 supporting such claims. Any amended complaint may not alter the
14 nature of this suit by alleging new, unrelated claims. The Clerk is
15 directed to send Plaintiff a blank Central District civil rights
16 complaint form, which Plaintiff is encouraged to use.

17 **OR**

18 3. If Plaintiff disagrees with the above analysis and/or
19 believes sufficient further factual allegations cannot be added to the
20 Complaint to remedy the deficiencies identified, then Plaintiff shall
21 file a Notice of Intent to Proceed with the Complaint. If Plaintiff
22 chooses to file such Notice of Intent, the Court may treat the
23 election as a statement that Plaintiff is unable to amend the
24 Complaint to address the defects identified, which may result in
25 dismissal of the claims found defective herein.

26 **OR**

27 4. If Plaintiff no longer wishes to pursue this action,
28 Plaintiff may dismiss it by filing a Notice of Dismissal under

1 Federal Rule of Civil Procedure 41(a)(1). A voluntary dismissal in
2 this instance may not constitute a “strike” under 28 U.S.C. §
3 1915(g), whereas a dismissal of an action filed by a prisoner
4 because it “fails to state a claim upon which relief may be granted”
5 may constitute a “strike.” See 28 U.S.C. § 1915(g). The Clerk is
6 directed to send Plaintiff a Central District request for dismissal
7 form.

8 **Plaintiff is cautioned that failure to timely file a fully**
9 **compliant response as directed in this Order within 30 days from**
10 **the date of this Order may result in the dismissal of part or all of**
11 **this action for the foregoing reasons, failure to prosecute, and/or**
12 **failure to comply with a court order.**

13 Dkt. 6 (“Screening Order”) at 13-15.

14 As of the date of this Order, Plaintiff has not filed a document
15 corresponding with any of the four options set forth above, nor has Plaintiff
16 sought additional time in which to do so.

17 Plaintiff is reminded that the Screening Order ordered him to select one
18 of the four options set forth above and file the document corresponding with
19 that option within 30 days of the date of the Screening Order, that is, by March
20 4, 2024. The failure could result in dismissal or all or part of Plaintiff’s claims
21 for failure to prosecute or failure to comply with a court order. The Clerk is
22 directed to again serve Plaintiff with the Screening Order (Dkt. 6), with the
23 blank attachments set forth above. The Court will delay taking further action
24 on Plaintiff’s failure for a period of 21 days from the date of this Order, during
25 which time Plaintiff must file the document associated with one of the four
26 options set forth above if he desires to continue to pursue this action.

27 Plaintiff is advised that if he fails to select one of the four options set
28 forth above and file the document associated with that option, the Court will

1 treat such a failure as a failure by Plaintiff to prosecute this action in a timely
2 fashion and a failure to comply with a Court order, resulting in a
3 recommendation that this action be dismissed. See Fed. R. Civ. P. 41(b).

4 IT IS SO ORDERED.

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7 Dated: April 11, 2024 _____


JOHN D. EARLY
United States Magistrate Judge